

(a) It is the purpose of the General Assembly that community advisory committees work to maintain the intent of this Part within the nursing homes in this State, including nursing homes operated by hospitals licensed under Article 5 of G.S. Chapter 131E. It is the further purpose of the General Assembly that the committees promote community involvement and cooperation with nursing homes and an integration of these homes into a system of care for the elderly.

(b) (1) A community advisory committee shall be established in each county which has a nursing home, including a nursing home operated by a hospital licensed under Article 5 of G.S. Chapter 131E, shall serve all the homes in the county, and shall work with each home in the best interest of the persons residing in each home. In a county which has one, two, or three nursing homes, the committee shall have five members. In a county with four or more nursing homes, the committee shall have one additional member for each nursing home in excess of three, and may have up to five additional members per committee at the discretion of the county commissioners.

(2) In each county with four or more nursing homes, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each nursing home in the county. Each member must serve on at least one subcommittee.

(3) Each committee shall be appointed by the board of county commissioners. Of the members, a minority (not less than one-third, but as close to one-third as possible) must be chosen from among persons nominated by a majority of the chief administrators of nursing homes in the county and of the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes. If the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes fail to make a nomination within 45 days after written notification has been sent to them by the board of county commissioners requesting a nomination, these appointments may be made by the board of county commissioners without nominations.

(c) Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a three-year term. Persons who were originally nominees of nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes, or who were appointed by the board of county commissioners when the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes failed to make nominations, may not be reappointed without the consent of a majority of the nursing

home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes within the county. If the nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes fail to approve or reject the reappointment within 45 days of being requested by the board of county commissioners, the commissioners may reappoint the member if they so choose.

(d) Any vacancy shall be filled by appointment of a person for a one-year term. Any person replacing a member nominated by the chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes or a person appointed when the chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes failed to make a nomination shall be selected from among persons nominated by the administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes, as provided in subsection (b). If the county commissioners fail to appoint members to a committee, or fail to fill a vacancy, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have been notified of the appointment or vacancy if nomination or approval of the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes is not required. If nominations or approval of the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes is required, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have received the nomination or approval, or no sooner than 45 days after the 45-day period for action by the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes.

(e) The committee shall elect from its members a chair, to serve a one-year term.

(f) Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by a committee, or employee or governing board member or immediate family member of an employee or governing board member of a home served by a committee, or immediate family member of a patient in a home served by a committee may be a member of a committee. Membership on a committee shall not be considered an office as defined in G.S. 128-1 or G.S. 128-1.1. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, which shall supply a copy to the Division of Facility Services.

(g) The Division of Aging, Department of Health and Human Services, shall develop training materials which shall be distributed to each committee member and nursing home. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under subsection (h) of this section. The Division of Aging, Department of Health and Human Services, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties.

- (h) (1) Each committee shall apprise itself of the general conditions under which the persons are residing in the homes, and shall work for the best interests of the persons in the homes. This may include assisting persons who have grievances with the home and facilitating the resolution of grievances at the local level.
- (2) Each committee shall quarterly visit the nursing home it serves. For each official quarterly visit, a majority of the committee members shall be present. In addition, each committee may visit the nursing home it serves whenever it deems it necessary to carry out its duties. In counties with four or more nursing homes, the subcommittee assigned to a home shall perform the duties of the committee under this subdivision, and a majority of the subcommittee members must be present for any visit.
- (3) Each member of a committee shall have the right between 10:00 A.M. and 8:00 P.M. to enter into the facility the committee serves in order to carry out the members' responsibilities. In a county where subcommittees have been established, this right of access shall be limited to homes served by those subcommittees to which the member has been appointed.
- (4) The committee or subcommittee may communicate through its chair with the Department or any other agency in relation to the interest of any patient. The identity of any complainant or resident involved in a complaint shall not be disclosed except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq.
- (5) Each home shall cooperate with the committee as it carries out its duties.
- (6) Before entering into any nursing home, the committee, subcommittee, or member shall identify itself to the person present at the facility who is in charge of the facility at that time.
- (i) Any written communication made by a member of a nursing home advisory committee within the course and scope of the member's duties, as specified in G.S. 131E-128, shall be privileged to the extent provided in this subsection. This privilege shall be a defense in a cause of action for libel if the member was acting in good faith and the statements or communications do not amount to intentional wrongdoing.

To the extent that any nursing home advisory committee or any member thereof is covered by liability insurance, that committee or member shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance.

*Harvin
Quidac*

Article I
Name and Status

- 4/25/01
The Brunswick
County Nursing Home
and Adult Care Home
Community Advisory Committee
per Harvin
Quidac*
- Section 1. Name. The name of the group shall be **The Brunswick County Nursing Home Advisory Committee.**
- Section 2. Status. The Brunswick County Nursing Home Advisory Committee shall be a voluntary, advisory group answering directly to the Brunswick County Board of Commissioners in coordination with the Region O Area Agency on Aging and the North Carolina Division of Aging.

Article II
Purpose

- Section 1. To monitor the Patient's Bill of Rights for residents in nursing homes in Brunswick County;
- Section 2. To provide increased social interaction and opportunities for enrichment for these adults;
- Section 3. To assist in preventing physical and psychological deterioration of these older adults by promoting independence;
- Section 4. To evaluate the activities of the nursing homes so that they meet the needs of the older adults in Brunswick County;
- Section 5. To promote community understanding of the aging process; and of the needs, problems, strengths and resources of older persons;
- Section 6. To report to the Brunswick Commissioners the status of the Committee.

Article III
The Brunswick County Nursing Home Advisory Committee

- Section 1. General Powers. The functioning of this committee shall be managed by the Commissioners of County.
- Section 2. Number. The Committee shall consist of six (6) appointed representatives from Brunswick County who are interested and supportive of nursing home activities. Appointments will follow procedures established in N.C. state laws.
- Section 3. Tenure. The Committee members shall hold office for one year initially. Afterwards terms will be for three years.
- Section 4. Selection. The Committee shall be appointed by the Brunswick County Commissioners.

Article IV
Removal of Advisory Committee Members

- Section 1. Removal. A Committee member may be removed for good cause by the County Commissioners.
- Section 2. Absenteeism. When a Committee member shall fail to appear

at three consecutive meetings of the Committee or at one-half of the meetings held during a two-year period, that person's membership on the Committee shall automatically terminate, and they shall be so notified by the Secretary in writing provided, however, that such member may, upon written request therefore, be allowed to appear at the next regular meeting of the Committee to request reinstatement, and the Committee may, in its discretion and for good cause, reinstate that person as a member.

Article V Resignation

Section 1. Resignation.

A member may resign by written notice to the Chairman of the County Commissioners. The resignation shall be presented at the next regular Advisory Committee meeting when it shall take effect.

Article VI Vacancies

Section 1. Vacancies.

Any vacancy occurring on the Advisory Committee will be filled by the Commissioners.

Article VII Officers

Section 1. Officers.

The Advisory Committee members shall elect a chairperson, vice-chairperson, and secretary. All officers must be Committee members.

Article VIII Duties

Section 1. Advisory Committee Members

The Committee shall give advice to the County Commissioners on how the nursing homes should operate.

Section 2. Chairperson.

The chairperson shall preside at all meetings of the Advisory Committee. The chairperson shall have the authority to appoint committees and task forces as are necessary.

Section 3. Vice-Chairperson

At the request of the chairperson, or in the chairperson's absence or disability, the vice-chairperson shall perform the duties and possess and exercise the powers of the chairperson.

Section 4. Secretary

The Secretary shall keep a complete record of all meetings of the Advisory Committee and submit them to the County Commissioners in a timely manner.

Article IX
Compensation of the Board of Directors

Section 1. Compensation

No members shall be entitled as a right to any compensation for attendance at meeting of the Advisory Committee. The Committee will develop policies to cover any compensation for other services of the Committee and will have them approved by the County Commissioners.

Article X
Meetings

Section 1. Regular Advisory Committee Meetings

Regular meetings of the Committee shall be held at least monthly. The regular meeting date will be the 4th Thursday of the month.

Section 2. Annual Advisory Committee Meetings

An annual meeting of the Committee shall be held in the first week of May of each year by the Committee.

Article XI
Notice of Meetings

Section 1. Notice of Regular Advisory Committee Meetings

Notice of meetings of the Committee shall be given not less than ten (10) days before each regular meeting.

Section 2. Notice of Special Advisory Committee Meetings

Notice of the date, time and place of any special meeting of the Committee shall be given to each member.

Article XII
Quorum

Section 1. Advisory Committee Meeting Quorum

To constitute a quorum at any meeting of the Advisory Committee, there shall be present a majority of the members.

Article XIII
Voting at Advisory Committee Meetings

Section 1. Voting at Advisory Committee Meetings

Each member at the time any vote or action of the Advisory Committee is taken upon any matter shall be entitled to cast one vote with respect thereto. The vote cast or action taken by a majority of the members present and

voting constituting a quorum at a meeting shall control on all matters, unless otherwise specified.

Article XIV
Rules of Procedure

Section 1. Rules of
Procedure

All meetings shall be governed according To Roberts Rules of Order Revised.

Article XV
Amendments

Section 1. Amendments

These bylaws may be amended or repealed and new bylaws adopted by the affirmative vote of two-thirds (2/3) of the entire Advisory Committee at that time in office at any meeting of the members of the Committee. A written copy of the proposed amendment changes shall be provided to all Advisory Committee members at least two (2) weeks prior to the board meeting at which they are to be considered.

NURSING HOME COMMUNITY ADVISORY COMMITTEE
Domiciliary Home Community Advisory Committee
Appointments and Activities

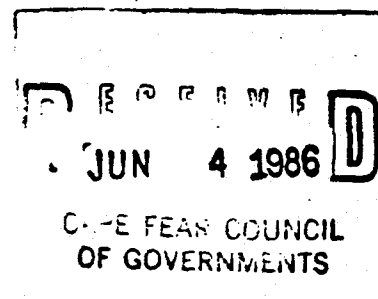
The Nursing Home Community Advisory Committee (NHCAC) and the Domiciliary Home Community Advisory Committee (DHCAC) serve the residents of long term care facilities within the county. The committees are responsible for monitoring the Residents' Bill of Rights, promoting community involvement in the homes, and providing public education on long term care issues.

NHCAC members are required to visit all nursing homes once a quarter as a committee and are to visit individually as often as possible. DHCAC members are to visit Homes for the Aged quarterly, Family Care Home annually, and Homes for Developmentally Disabled Adults annually as a committee with individual visits being carried out as often as possible. Quarterly business meetings are required in the legislation. Committee activities will involve approximately eight hours a month. Orientation and training will be provided by the North Carolina Division of Aging through the Regional Ombudsman Program.

Members of these committees must reside within the county which the committee serves. They should be willing to attend the training sessions, and able to effectively communicate with the residents and home administrators. One-third of all appointments are to be nominated by home administrators. ~~All appointees shall serve an initial one year term and then may be reappointed to a subsequent term of two or three years to ensure staggered terms of office.~~

The legislation requires that "no person or immediate family member of a person with a financial interest in a home served by the committee, or employee or governing board member of a home served by the committee, or immediate family member of a resident in a home served by the committee may be a member of that committee. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of their duties."

Volunteers serving on these committees are the link between the facility and the community. Their work will ultimately result in the improved quality of life for home residents. Additional information on committee activities can be obtained from the committee chairperson or from the Regional Ombudsman at the Region D Area Agency on Aging, 763-0191.



and dates by which they must be corrected" following "county director."

§ 131D-27. Confidentiality.

The Department of Human Resources is authorized to inspect residents' records maintained at the facility when necessary to investigate any alleged violation of the declaration of the residents' rights. The Department of Human Resources shall maintain the confidentiality of all persons who register complaints with the Department of Human Resources and of all records inspected by the Department of Human Resources. (1981, c. 923, s. 1.)

§ 131D-28. Civil action.

Every resident shall have the right to institute a civil action for injunctive relief to enforce the provisions of this Article. The Department of Human Resources, a general guardian, or any person appointed ad litem pursuant to law, may institute an action pursuant to this section on behalf of the resident or residents. Any agency or person above named may enforce the rights of the resident specified in G.S. 131D-21 which the resident himself is unable to enforce. (1981, c. 923, s. 1.)

§ 131D-29. Revocation of license.

The Department of Human Resources shall have the authority to revoke a license issued pursuant to G.S. 131D-2 in any case where it finds that there has been a substantial failure to comply with the provisions of this Article.

Such revocation shall be effected by mailing to the licensee by registered or certified mail, or by personal service of, a notice setting forth the particular reasons for such action. Such revocation shall become effective 20 days after the mailing or service of the notice, unless the applicant or licensee, within such 20-day period, shall give written notice to the Department of Human Resources requesting a hearing, in which case the notice shall be deemed to be suspended. If a hearing has been requested, the licensee shall be given a prompt and fair hearing pursuant to the Administrative Procedure Act. At any time at or prior to the hearing, the Department of Human Resources may rescind the notice of revocation upon being satisfied that the reasons for the revocation have been or will be removed. (1981, c. 923, s. 1.)

§ 131D-30. Penalties; remedies.

(a) The Department of Human Resources shall impose an administrative penalty in accordance with provisions of this Article on any facility:

- (1) Which fails to comply with either the entire section of residents' rights listed in G.S. 131D-21 or with any of these rights, the failure to comply with which endangers the health, safety or welfare of a resident, or
- (2) Which refuses to allow an authorized representative of the Department of Human Resources to inspect the premises and records of the facility.

Notwithstanding the notice requirements of G.S. 131D-26(b), any penalty imposed by the Department under this section shall commence on the day the violation began.

(b) Each day of a continued violation shall constitute a separate violation. The penalty for each violation shall be ten dollars (\$10.00) per day per resident affected by the violation.

(c) Any facility wishing to contest a penalty shall be entitled to an administrative hearing as provided in the Administrative Procedure Act.

(d) The Secretary of Human Resources may bring a civil action in the Superior Court of Wake County to recover the amount of the administrative penalty whenever a facility:

- (1) Which has not requested an administrative hearing fails to pay the penalty within 60 days after being notified of such penalty, or
- (2) Which has requested an administrative hearing fails to pay the penalty within 60 days after receipt of a written copy of the decision as provided in G.S. 150A-36. (1981, c. 923, s. 1; 1983, c. 824, ss. 17, 18.)

Effect of Amendments. — The 1983 amendment, effective Jan. 1, 1984, added the last paragraph of subsection (a) and substituted "receipt" for "service" in subdivision (2) of subsection (d).

§ 131D-31. Domiciliary home community advisory committees.

(a) **Statement of Purpose.** — It is the intention of the General Assembly that community advisory committees work to maintain the intent of the Domiciliary

Home Residents' Bill of Rights within the licensed domiciliary homes in this State. It is the further intent of the General Assembly that the committees promote community involvement and cooperation with domiciliary homes to ensure quality care for the elderly and disabled adults.

(b) Establishment and Appointment of Committees. —

- (1) A community advisory committee shall be established in each county which has at least one licensed domiciliary home, shall serve all the homes in the county, and shall work with each of these homes for the best interests of the residents. In a county which has one, two, or three homes for the aged and disabled, the committee shall have five members.
- (2) In a county with four or more homes for the aged and disabled, the committee shall have one additional member for each home for the aged and disabled in excess of three, up to a maximum of 20 members. In each county with four or more homes for the aged and disabled, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each domiciliary home in the county. Each member must serve on at least one subcommittee.
- (3) In counties with no homes for the aged and disabled, the committee shall have five members. Regardless of how many members a particular community advisory committee must have, at least one member of each committee shall be a person involved in the area of mental retardation.
- (4) The boards of county commissioners are encouraged to appoint the Domiciliary Home Community Advisory Committees. Of the members, a minority (not less than one-third, but as close to one-third as possible) must be chosen from among persons nominated by a majority of the chief administrators of domiciliary homes in the county. If the domiciliary home administrators fail to make a nomination within 45 days after written notification has been sent to them requesting a nomination, such appointments may be made without nominations. If the

county commissioners fail to appoint members to a committee by July 1, 1983, the appointments shall be made by the Assistant Secretary on Aging, Department of Human Resources, no sooner than 45 days after nominations have been requested from the domiciliary home administrators, but no later than October 1, 1983. In making his appointments, the Assistant Secretary shall follow the same appointment process as that specified for the County Commissioners.

(c) Joint Nursing and Domiciliary Home Community Advisory Committees. —

Appointment to the Nursing Home Community Advisory Committees shall preclude appointment to the Domiciliary Home Community Advisory Committees except where written approval to combine these committees is obtained from the Assistant Secretary on Aging, Department of Human Resources. Where such approval is obtained, the Joint Nursing and Domiciliary Home Community Advisory Committee shall have the membership required of Nursing Home Community Advisory Committees and one additional member for each home for the aged and disabled present in the county. In counties with no homes for the aged and disabled, there shall be one additional member for every four domiciliary homes in the county. In no case shall the number of members on the Joint Nursing and Domiciliary Home Community Advisory Committees exceed 25. Each member shall exercise the statutory rights and responsibilities of both Nursing Home Committees and Domiciliary Home Committees. In making appointments to this joint committee, the county commissioners shall solicit nominations from both nursing and domiciliary home administrators for the appointment of approximately (but no more than) one-third of the members.

(d) Terms of Office. — Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a two- or three-year term at the county commissioners' discretion to ensure staggered terms of office.

(e) Vacancies. — Any vacancy shall be filled by appointment of a person for a one-year term. If this vacancy is in a position filled by an appointee nominated by the chief administrators of domiciliary homes within the county, then the county commissioners shall fill the vacancy from

persons nominated by a majority of the chief administrators. If the domiciliary home administrators fail to make a nomination by registered mail within 45 days after written notification has been sent to them requesting a nomination, such appointment may be made without nominations. If the county commissioners fail to fill a vacancy, the vacancy may be filled by the Assistant Secretary on Aging, Department of Human Resources no sooner than 45 days after the commissioners have been notified of the appointment or vacancy.

(f) Officers. — The committee shall elect from its members a chair, to serve a one-year term.

(g) Minimum Qualifications for Appointment. — Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by the committee, or employee or governing board member of a home served by the committee, or immediate family member of a resident in a home served by the committee may be a member of that committee. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, Department of Human Resources.

(h) Training. — The Division of Aging, Department of Human Resources, shall develop training materials, which shall be distributed to each committee member. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under G.S. 131D-32. The Division of Aging, Department of Human Resources, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties. (1981, c. 923, s. 1; 1983, c. 88, s. 1.)

Editor's Note. — Session Laws 1981, c. 923, s. 3, makes this section effective Jan. 1, 1982.

Session Laws 1983, c. 88, s. 3, provides "Sec. 3. Those facilities licensed pursuant to G.S. 130-9(e)(5) (now repealed) are not covered by this act but are covered by G.S. 130-9.5 (now repealed)." For present provisions relating to the licensure of nursing homes and the nursing home patients' bill of rights, see Parts A and B of Article 6 of Chapter 131E (§ 131E-100 et seq.).

Effect of Amendments. — The 1983 amendment, effective March 22, 1983, rewrote this section.

§ 131D-32. Functions of domiciliary home community advisory committees.

(a) The committee shall serve as the nucleus for increased community involvement with domiciliary homes and their residents.

(b) The committee shall promote community education and awareness of the needs of aging and disabled persons who reside in domiciliary homes, and shall work towards keeping the public informed about aspects of long-term care and the operation of domiciliary homes in North Carolina.

(c) The committee shall develop and recruit volunteer resources to enhance the quality of life for domiciliary home residents.

(d) The committee shall establish linkages with the domiciliary home administrators and the county Department of Social Services for the purpose of maintaining the intent of the domiciliary home residents' Bill of Rights.

(e) Each committee shall apprise itself of the general conditions under which the persons are residing in the homes, and shall work for the best interests of the persons in the homes. This may include assisting persons who have grievances with the home and facilitating the resolution of grievances at the local level. The names of all complaining persons and the names of residents involved in the complaint shall remain confidential unless written permission is given for disclosure. The committee shall notify the enforcement agency of all verified violations of the Domiciliary Home Residents' Bill of Rights.

(f) The committee or subcommittee may communicate through the committee chair with the Department of Human Resources, the county Department of Social Services, or any other agency in relation to the interest of any resident.

(g) Each committee shall quarterly visit the homes for the aged and disabled it serves. For each official quarterly visit, a majority of the committee members shall be present. A minimum of three members of the committee shall make at least one visit annually to each family care home and group home for developmentally disabled adults present in the county. In addition, each committee may visit the domiciliary homes it serves whenever it deems it neces-

sary to carry out its duties. In counties with subcommittees, the subcommittee assigned to a home shall perform the duties of the committee under this subsection, and a majority of the subcommittee members must be present for any visit. When visits are made to group homes for developmentally disabled adults, rules concerning confidentiality as adopted by the Commission for Mental Health, Mental Retardation and Substance Abuse Services shall apply.

(h) The individual members of the committee shall have the right between 10:00 a.m. and 8:00 p.m. to enter the facility the committee serves in order to carry out the members' responsibilities. In a county where subcommittees have been established, this right of access shall be limited to members of the subcommittee which serves that home. A majority of the committee or subcommittee members must be present to enter the facility at other hours. Before entering any domiciliary home, the committee or members of the committee shall identify themselves to the person present at the facility who is in charge of the facility at that time.

(i) The committee shall prepare reports as required by the Department of Human Resources containing an appraisal of the

problems of domiciliary care facilities as well as issues affecting long-term care in general. Copies of the report shall be sent to the board of county commissioners, county Department of Social Services and the Division of Aging.

(j) Nothing contained in this section shall be construed to require the expenditure of any county funds to carry out the provisions herein. (1981, c. 923, s. 1; 1983, c. 88, s. 2.)

Editor's Note. — Session Laws 1981, c. 923, s. 3, makes this section effective Jan. 1, 1982.

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Effect of Amendments. — The 1983 amendment, effective March 22, 1983, rewrote this section.

§ 131D-33: Repealed by Session Laws 1983, c. 824, s. 19, effective January 1, 1984.

Editor's Note. — Repealed § 131D-33 was enacted by Session Laws 1981, c. 923, s. 1.

deemed to be suspended. If a hearing has been requested, the licensee shall be given a prompt and fair hearing pursuant to the Administrative Procedure Act. At any time at or prior to the hearing, the Department may rescind the notice of revocation upon being satisfied that the reasons for the revocation have been or will be removed.

(b) In the case of a nursing home operated by a hospital which is licensed under Article 5 of G.S. Chapter 131E, when the Department of Human Resources finds that there has been a substantial failure to comply with the provisions of this Part, it may issue an order preventing the continued operation of the home.

Such order shall be effected by mailing to the hospital by registered or certified mail, or by personal service of, a notice setting forth the particular reasons for such action. Such order shall become effective 20 days after the mailing of the notice, unless the hospital, within such 20 day period, shall give written notice to the Department of Human Resources requesting a hearing, in which case the order shall be deemed to be suspended. At any time at or prior to the hearing, the Department of Human Resources may rescind the order upon being satisfied that the reasons for the order have been or will be removed. (1977, c.897, s. 1; 1983, c. 143, s. 3; c. 775, s. 1; 1987, c. 827, s. 251.)

G.S. 131E-126. Repealed by Session Laws 1987 c. 600, s. 1. effective October 1, 1987.

Cross Reference - For provisions relating to penalties see G.S. 131E-129.

G.S. 131E-127. No interference with practice of medicine or physician-patient relationship.

Nothing in this Part shall be construed to interfere with the practice of medicine or the physician-patient relationship. (1977, c. 897, s. 1.; 1983, c. 775, s. 1.)

G.S. 131E-128. Nursing home advisory committees.

(a) It is the purpose of the General Assembly that community advisory committees work to maintain the intent of this Part within the nursing homes in this State, including nursing homes operated by hospitals licensed under Article 5 of G.S. Chapter 131E. It is the further purpose of the General Assembly that the committees promote community involvement and cooperation with nursing homes and an integration of these homes into a system of care for the elderly.

(b) (1) A community advisory committee shall be established in each county which has a nursing home, including a nursing home operated by a hospital licensed under Article 5 of G.S. Chapter 131E, shall serve all the homes in the county, and shall work with each home in the best interest of the persons residing in each home. In a county which has one, two, or three nursing homes, the committee shall have five members. In a county with four or more nursing homes, the committee shall have one additional member for each nursing home in excess of three.

- (2) In each county with four or more nursing homes, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each nursing home in the county. Each member must serve on at least one subcommittee.
- (3) Each committee shall be appointed by the board of county commissioners. Of the members, a minority (not less than one-third, but as close to one-third as possible) must be chosen from among persons nominated by a majority of the chief administrators of nursing homes in the county and of the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes. If the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes fail to make a nomination within 45 days after written notification has been sent to them by the board of county commissioners requesting a nomination, these appointments may be made by the board of county commissioners without nominations.

(c) Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a three-year term. Persons who were originally nominees of nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes, or who were appointed by the board of county commissioners when the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes failed to make nominations, may not be reappointed without the consent of a majority of the nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes within the county. If the nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. 131E, which operate nursing homes fail to approve or reject the reappointment within 45 days of being requested by the board of county commissioners, the commissioners may reappoint the member if they so choose.

(d) Any vacancy shall be filled by appointment of a person for a one-year term. Any person replacing a member nominated by the chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes or a person appointed when the chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes failed to make a nomination shall be selected from among persons nominated by the administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes, as provided in subsection (b). If the county commissioners fail to appoint members to a committee, or fail to fill a vacancy, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have been notified of

the appointment or vacancy if nomination or approval of the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes is not required. If nominations or approval of the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate a nursing home is required, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have received the nomination or approval, or no sooner than 45 days after the 45-day period for action by the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes.

(e) The committee shall elect from its members a chair, to serve a one-year term.

(f) Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by a committee, or employee or governing board member or immediate family member of a patient in a home served by a committee may be a member of a committee. Membership on a committee shall not be considered an office as defined in G.S. 128-1 or G.S. 128-1.1. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, which shall supply a copy to the Division of Facility Services.

(g) The Division of Aging, Department of Human Resources, shall develop training materials which shall be distributed to each committee member and nursing home. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under subsection (h) of this section. The Division of Aging, Department of Human Resources, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties.

(h) (1) Each committee shall apprise itself of the general conditions under which the persons are residing in the homes, and shall work for the best interests of the persons in the homes. This may include assisting persons who have grievances with the home and facilitating the resolution of grievances at the local level.

(2) Each committee shall quarterly visit the nursing home it serves. For each official quarterly visit, a majority of the committee members shall be present. In addition, each committee may visit the nursing home it serves whenever it deems it necessary to carry out its duties. In counties with four or more nursing homes, the subcommittee assigned to a home shall perform the duties of the committee under this subdivision, and a majority of the subcommittee members must be present for any visit.

- (3) Each member of a committee shall have the right between 10:00 a.m. and 8:00 p.m. to enter into the facility the committee serves in order to carry out the members' responsibilities. In a county where subcommittees have been established, this right of access shall be limited to homes served by the subcommittees to which the member has been appointed.
- (4) The committee or subcommittee may communicate through its chair with the Department or any other agency in its relation to the interest of any patient. The names of all complaining persons shall remain confidential unless written permission is given for disclosure.
- (5) Each home shall cooperate with the committee as it carries out its duties.
- (6) Before entering into any nursing home, the committee, subcommittee, or member shall identify itself to the person present at the facility who is in charge of the facility at the time.

(i) Any written communication made by a member of a nursing home advisory committee within the course and scope of the member's duties, as specified in G.S. 131E-128, shall be privileged to the extent provided in this subsection. The privilege shall be a defense in a cause of action for libel if the member was acting in good faith and the statements or communications do not amount to intentional wrongdoing.

To the extent that any nursing home advisory committee or any member thereof is covered by liability insurance, that committee or member shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance. (1943, c. 780, s. 21; 1971, c. 799; 1973, c. 695, s. 6; 1977, c. 268; 1983, c. 775, s. 1; 1987, c. 682, s.1.)

G.S. 131E-129. Penalties.--(a) Violations classified. The Department shall impose an administrative penalty in accordance with provisions of this Part on any facility which is found to be in violation of the requirements of G.S. 131E-117 or applicable State and federal laws and regulations. Citations issued for violations shall be classified according to the nature of the violations as follows:

- (1) 'Type A Violation' means a violation by a facility of the regulations, standards, and requirements set forth in G.S. 131-117, or applicable State or federal laws and regulations governing the licensure or certification of a facility which creates substantial risk that death or serious physical harm to a resident will occur or where such harm has occurred. Type A Violations shall be abated or eliminated immediately. The Department shall impose a civil penalty in an amount not less than two hundred fifty dollars (\$250.00) nor more than five thousand dollars (\$5,000) for each Type A Violation.
- (2) 'Type B Violation' means a violation by a facility of the regulations, standards and requirements set forth in G.S. 131E-117 or applicable State or federal laws

BY-LAWS FOR THE BRUNSWICK COUNTY NURSING-DOMICILIARY HOMES COMMUNITY ADVISORY COMMITTEE

Article IRECEIVED
7-28-87Name and Status

- Section 1. Name. The name of the group shall be the Brunswick County Nursing-Domiciliary Homes Community Advisory Committee.
- Section 2. Status The Brunswick County Nursing-Domiciliary Homes Community Advisory Committee shall be a voluntary, advisory group answering directly to the Brunswick County Board of Commissioners in coordination with the Region O Area Agency on Aging and the North Carolina Division of Aging.

Article IIPurpose

- Section 1. To monitor the Patients/Residents' Bill of Rights in nursing and domiciliary homes in Brunswick County;
- Section 2. To provide increased social interaction and opportunities for enrichment for these adults;
- Section 3. To assist in preventing physical and psychological deterioration of these older adults by promoting independence;
- Section 4. To evaluate the activities of the nursing and domiciliary homes so that they meet the needs of the older adults in Brunswick County;
- Section 5. To promote community understanding of the aging process and of the needs, problems, strengths and resources of older persons;
- Section 6. To report to the Brunswick County Commissioners the status of the Committee.

Article IIIThe Brunswick County Nursing-Domiciliary Homes Community Advisory Committee

- Section 1. General Powers. The functioning of this committee shall be managed by the Commissioners of Brunswick County.
- Section 2. Number. The Committee shall consist of at least seven (7) appointed representatives from Brunswick County who are interested and supportive of nursing and domiciliary homes activities. Appointments will follow procedures established in North Carolina state laws.
- Section 3. Tenure. The Committee members shall hold office for one year initially. Afterward terms will be for three years.
- Section 4. Selection. The Committee shall be appointed by the Brunswick County Commissioners.

Article IVRemoval of Advisory Committee Members

- Section 1. Removal. A Committee member may be removed for good cause by the County Commissioners.

Section 2. Absenteeism.

When a Committee member shall fail to appear at three (3) consecutive meetings of the committee or at one-half of the meetings held during a two-year period, that person's membership on the committee shall automatically terminate and they shall be so notified by the Secretary in writing.

Article V

Resignation

Section 1. Resignation.

A member may resign by written notice to the Chairperson of the County Commissioners. The resignation shall be presented at the next regular Advisory committee meeting when it shall take effect.

Article VI

Vacancies

Section 1. Vacancies.

Any vacancies occurring on the Advisory Committee will be filled by the Commissioners.

Article VII

Officers

Section 1. Officers.

The Advisory Committee members shall elect a chairperson, Vice-Chairperson and Secretary. All officers must be committee members.

Article VIII

Duties

Section 1. Advisory
Committee
Members.

The Committee shall advise the County Commissioners on how the nursing and domiciliary homes should operate.

Section 2. Chairperson.

The chairperson shall preside at all meetings of the Advisory Committee. The chairperson shall have the authority to appoint committees and task forces as are necessary.

Section 3. Vice-Chair-
person.

At the request of the chairperson or in the chairperson's absence or disability, the vice-chairperson shall perform the duties and possess and exercise the powers of the chairperson.

Section 4. Secretary.

The Secretary shall keep a complete record of all meetings of the Advisory Committee and submit them to the County Commissioners in a timely manner.

Article IX

Compensation for the Nursing-Domiciliary Homes Advisory Members

Section 1. Compensation.

No members shall be entitled as a right to any compensation for attendance at meeting of the Advisory Committee. The Committee will develop policies to cover any compensation for other services of the committee and will have them approved by the County Commissioners.

Article X

Meetings

- Section 1. Regular Advisory Committee Meetings. Regular meetings of the Committee shall be held at least Quarterly. The regular meeting date will be the 2nd Thursday of the month at 6:00 pm.
- Section 2. Annual Advisory Committee Meeting. An annual meeting of the Committee shall be held by the 2nd week in May of each year.

Article XI

Notice of Meetings

- Section 1. Notice of Regular Advisory Committee Meetings. Notice of meetings of the Committee shall be given not less than ten (10) days before each regular meeting.
- Section 2. Notice of Special Advisory Committee Meetings. Notice of the date, time and place of any special meeting of the Committee shall be given to each member.

Article XII

Quorum

- Section 1. Advisory Committee Meeting Quorum. To constitute a quorum at any meeting of the Advisory Committee, there shall be present a majority of the members.

Article XIII

Voting at Advisory Committee Meetings

- Section 1. Voting at Advisory Committee Meetings. Each member at the time any vote or action of the Advisory Committee is taken upon any matter shall be entitled to cast one vote with respect thereto. The vote cast or action taken by a majority of the members present and voting constitute a quorum at a meeting shall control on all matters, unless otherwise specified.

Article XIV

Rules of Procedure

- Section 1. Rules of Procedure. All meetings shall be governed according to Roberts Rules of Order, Revised.

Article XV

Amendments

- Section 1. Amendments. These by-laws may be amended or repealed and new by-laws adopted by the affirmative vote of two-thirds (2/3) of the entire Advisory Committee at the time in office at any meeting of the members of the Committee. A written copy

of the proposed admendment changes shall be provided to all Advisory Committee members at least two (2) weeks prior to the board meeting at which they are to be considered.